

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. No. 03-770-C)

In the Application of:)
Radka et al.)
Serial No. 10/568,134)
I.A. Filing Date: August 17, 2004)
For: Detection and Quantitation of Nucleic Acid)
Molecules in Biological Samples)
Examiner: TBD
Art Unit: TBD
Confirmation No.: 5871

PETITION UNDER RULE 1.47(a)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The applicants hereby petition under Rule 1.47(a) to proceed with examination of this application without inventor Susan Radka's Declaration pursuant to Rule 1.63. As described below and evidenced by the attached Declarations and exhibits, inventor Radka has refused to cooperate in the prosecution of this application.

The following describes the efforts undertaken to obtain inventor Radka's cooperation and the results obtained:

1. As attested to in the accompanying Declaration of Rodney Romasanta, on January 8, 2007, Rodney Romasanta, a legal file clerk working at Sirna Therapeutics, Inc., (hereinafter "Sirna," to whom the present application is assigned or under obligation of assignment by each of the inventors) sent by FedEx courier a document package containing an Assignment and combined Declaration pursuant to Rule 1.63 and Power of Attorney to the address of inventor Radka last known to Sirna:

7933 Orion Way
Aryada, CO 80007.

2. Attached to Mr. Romasanta's Declaration as Exhibit A is the FedEx tracking report showing that the package was delivered to this address on January 10, 2007, the following day.

3. Mr. Romasanta attests that inventor Radka never replied to him regarding the documents.
4. Mr. Romasanta further attests that on January 18, 2007, he left a voice-mail message at inventor Radka's telephone number last known to Sirna indicating that he had verification that she had received the FedEx package he had sent her and requesting that she sign and return the documents, further adding that she should contact Mr. Romasanta if she had any questions. Mr. Romasanta attested that inventor Radka never replied to him in response to the voice-mail message.
5. On March 9, 2007, the undersigned sent to inventor Radka at the address listed in paragraph numbered 1 of this paper by FedEx courier a package containing the complete specification, claims, and abstract; combined Declaration under Rule 1.63 with Power of Attorney; and Assignment with a request to review all the documents and then sign and date both the Assignment combined Declaration and Power of Attorney and return them in the enclosed pre-paid FedEx envelope. Inventor Radka was also encouraged to contact the undersigned if she had any questions.
6. Attached hereto as Exhibit A1 is the FedEx tracking report, showing that the package sent to inventor Radka was successfully delivered on March 12, 2007.
7. The undersigned never received any sort of response from inventor Radka.
8. As attested to in the accompanying Declaration of Alicia Vagts, in-house legal associate for Sirna Therapeutics, Inc., on April 9, 2007, Ms Vagts left a voice-mail message at the same telephone number used by Mr. Romasanta on January 18, 2007.
9. Ms. Vagts attests that inventor Radka is no longer employed by Sirna Therapeutics, Inc.
10. Ms. Vagts further attests that on April 10, 2007, inventor Radka responded to Ms. Vagts voice-mail message. Ms. Vagts attests that inventor Radka stated she was displeased with the circumstances surrounding her separation from Sirna and that she would not cooperate with Sirna. Ms. Vagts further attests that inventor Radka stated she was uninterested in the patent application, would not cooperate in prosecution of the application, and would not execute the inventors' Declaration.

It is respectfully submitted that the foregoing facts together with the accompanying Declarations of Alicia Vagts and Rodney Romasanta provide sufficient evidence that inventor Radka refuses to cooperate in the prosecution of the present application and that this petition under Rule 1.47(a) should be granted.

If there are any questions or The Patent Office is encouraged to contact the undersigned as indicated below.

Respectfully submitted,

Date: April 12, 2007

/Michael S. Greenfield/
Registration No. 37,142

Telephone: 312-913-0001
Facsimile: 312-913-0002

McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, IL 60606

EXHIBIT A1

**Track Shipments
Detailed Results**[Quick Help](#)

Tracking number	644059578307	Reference	000663.01574
Signed for by	Signature release on file	Destination	ARVADA, CO
Ship date	Mar 9, 2007	Delivered to	Residence
Delivery date	Mar 12, 2007 10:58 AM	Service type	Standard Pak
		Weight	2.0 lbs.
Status	Delivered		

Date/Time	Activity	Location	Details
Mar 12, 2007 10:58 AM	Delivered	ARVADA, CO	Left at front door. Package delivered to recipient address - release authorized
Mar 10, 2007 7:13 AM	On FedEx vehicle for delivery	ARVADA, CO	
	At local FedEx facility	ARVADA, CO	Package not due for delivery
	5:19 AM	DENVER, CO	
	4:18 AM	MEMPHIS, TN	
Mar 9, 2007 11:34 PM	Departed FedEx location	CHICAGO, IL	
	11:33 PM	CHICAGO, IL	
	9:49 PM	CHICAGO, IL	
	9:25 PM	CHICAGO, IL	
	8:21 PM	CHICAGO, IL	
	5:18 PM	CHICAGO, IL	Picked up
			Package data transmitted to FedEx

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Your Name: Your E-mail Address:

E-mail address

Language

Exception
updatesDelivery
updates

<input type="text"/>	English

<input type="text"/>	English

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non-English characters.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. No. 03-770-C)

In the Application of:)
Radka et al.)
Serial No. 10/568,134) Examiner: TBD
I.A. Filing Date: August 17, 2004) Art Unit: TBD
For: Detection and Quantitation of Nucleic Acid) Confirmation No.: 5871
Molecules in Biological Samples)

DECLARATION OF ALICIA VAGTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Alicia Vagts, hereby declare as follows:

1. I am an in-house legal associate for Sirna Therapeutics, Inc. (hereinafter "Sirna").
 2. Sirna is the real party in interest of this application as each inventor has assigned or is under an obligation of assignment of this application to Sirna.
 3. I make this Declaration to set forth the facts regarding our attempts to obtain the cooperation of inventor Susan Radka in the prosecution of this application and, in particular, to have inventor Radka execute an inventor's Declaration as required by 37 C.F.R. 1.63.
 4. Susan Radka is no longer employed by Sirna.
 5. On April 9, 2007, I left a telephone message with inventor Radka at the same telephone number previously used (on information and belief) by Rodney Romasanta.
 6. On April 10, 2007, inventor Radka responded to my voice-mail message. She informed me that she was displeased with the circumstances surrounding her separation from Sirna and would not cooperate with Sirna. She said she was uninterested in the patent application, and

would not cooperate in its prosecution. In particular, inventor Radka informed me she would not execute a Declaration.

7. I hereby declare that all statements made herein to my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed:

Alicia Vagts

Dated:

April 11, 2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. No. 03-770-C)**

In the Application of:)
Radka et al.)
Serial No. 10/568,134) Examiner: TBD
I.A. Filing Date: August 17, 2004) Art Unit: TBD
For: Detection and Quantitation of Nucleic Acid) Confirmation No.: 5871
Molecules in Biological Samples)

DECLARATION OF RODNEY ROMASANTA

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Rodney Romasanta, hereby declare as follows:

1. I am a Legal File Clerk for Robert Half Legal assigned to Sirna Therapeutics, Inc. (hereinafter “Sirna”).
 2. I make this Declaration to set forth the facts regarding my attempts to obtain the signature of Susan Radka on an inventor’s Declaration, which, on information and belief, is required by 37 C.F.R. 1.63.
 3. On January 9, 2007, I sent by FedEx courier an assignment and combined Declaration and Power of Attorney to Susan Radka’s address last known to Sirna:

7933 Orion Way
Arvada, CO 80007
 4. Attached hereto as Exhibit A is the FedEx tracking report showing delivery of the package to this address on January 10, 2007.
 5. I never received a reply from inventor Radka in response to these documents.

6. On January 18, 2007, I left a telephone voice-mail message at the last known telephone number of inventor Radka indicating that I had received verification that she had received the previous FedEx package and if she could please sign and return the documents to me. I also added that if she had any questions, she should contact me. I never received a reply to my voice-mail message.

7. I hereby declare that all statements made herein to my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signed: Rodney Romasanta
Rodney Romasanta

Dated: April 11, 2007

EXHIBIT A

Track Shipments

Detailed Results

 Quick Help

Tracking number	792912291741	Destination	Arvada, CO
Signed for by	Signature release on file	Delivered to	Residence
Ship date	Jan 9, 2007	Service type	Priority Envelope
Delivery date	Jan 10, 2007 10:08 AM	Weight	0.5 lbs.
Status	Delivered		
Signature image available	No		

Date/Time	Activity	Location	Details
Jan 10, 2007 10:08 AM	Delivered	Arvada, CO	Left at front door. Package delivered to recipient address - release authorized
	7:56 AM On FedEx vehicle for delivery	ARVADA, CO	
	7:17 AM At local FedEx facility	ARVADA, CO	
	5:14 AM At dest sort facility	DENVER, CO	
	4:28 AM Departed FedEx location	MEMPHIS, TN	
	1:09 AM Arrived at FedEx location	MEMPHIS, TN	
Jan 9, 2007 6:26 PM	Left origin	SAN FRANCISCO, CA	
	3:27 PM Picked up	SAN FRANCISCO, CA	
Jan 8, 2007 6:53 PM	Package data transmitted to FedEx		

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 By selecting this check box and the Submit button, I agree to these [Terms and Conditions](#)
